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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,601

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Jon S. Gardner

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EXAMINER

JEAN, FRANTZ B

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/803,601	<b>Applicant(s)</b> GARDNER, JON S.	
	<b>Examiner</b> Frantz B. Jean	<b>Art Unit</b> 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This office action is in response to applicant's response filed on 2/27/07. Claims 1-21 are pending in the application.

#### **Claim Rejections. 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21 (2) of such treaty in the English language.

Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Powers US patent Number 6,446,115.

As per claim 1, Powers teaches a communication system that transmits electronic mail among multiple sender and recipient terminals and which both uses and augments the Internet (see abstract), comprising: a postal server and a postal server software software (see fig 1 ), links connecting the sender and recipient terminals and said postal

server and software to the Internet, and sender software operable on at least the sender terminal that selectively connects the sender terminal to the postal server via the internet and said sender link, said postal server software providing premium mail services, and said sender terminal and software providing a selection of said premium services to be performed with respect to the transmitted electronic mail (see col. 15 line 63 to col. 16 line 62).

As per claim 2, Powers teaches a communications system according to claim 1 further comprising recipient software operable at least on said recipient terminal that processes said mail received from said postal server and postal server software via the internet and said recipient link (col. 15 line 63 to col. 16 line 10).

As per claim 3, Powers teaches a communication system according to claim 2 wherein at least one of said sender and recipient software is application software stored at said sender and recipient terminals (fig 1-3; col. 15 lines 63 to col. 16 line 30).

As per claim 4, Powers teaches a communication system according to claim 3 wherein the Internet has email application software and operates on the multiple sender and receiver terminals, said sender and receiver software is operable within said email application software (see abstract).

As per claim 5, Powers teaches a communication system according to claim 2 wherein at least one of said sender and recipient software is stored and accessible to the sender and/or recipient at said postal server (col. 17 lines 16-56).

As per claim 6, Powers teaches a communication system according to claim 2 wherein said links comprise a network interconnecting said multiple said terminals to the

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Internet, at least one of said sender, recipient and postal software is stored and/or accessible to the sender and/or recipient at said network (fig 1, col. 16 lines 31 et seq)

As per claim 7, Powers teaches a communication system according to claim 1 further comprising payment software operable by at least said sender terminal and software and said postal server and software to authorize and account for payment for use of said postal server and software (col. 15 lines 10-61).

As per claim 8, Powers teaches a communication system according to claim 7 wherein said payment software accounts for incentive credits for a recipient terminal in response to opening of selected electronic mail at said recipient terminal (col. 15 lines 10-61).

As per claim 9, Powers teaches a communication system according to claim 7 wherein said payment software collects an additional fee in response to the sender software selection of optional services of said postal server and software (col. 15 lines 10-61).

As per claim 10, Powers teaches a communication system according to claim 1 wherein said connecting links between the internet and any of said sender terminal, recipient terminal, and postal server includes a telecommunications link (see fig 1, col. 16 lines 31-64).

As per claim 11, Powers teaches a communication system according to claim 1 wherein said connecting links between the internet and any of said sender terminal, recipient terminal, and postal server includes a link selected from the group consisting of: ISP, intranet, extranet, LAN, dial up, DSL, cable, satellite, cell, wireless, physical delivery and combinations thereof (col. 16 lines 31-64)

As per claim 12, Powers teaches a communication system according to claim 1 wherein said at premium service is selected from the group consisting of: identification of said sender; certification of the identity of the entity operating said sender terminal; prioritization of sent and received mail; screening of mail for technical risks; screening of mail for content risks; encryption of mail; notification to sender of receipt of mail; notification to sender of opening of mail; pre-paid replies for recipient to respond to sender through the postal server; hard copy delivery of mail; customized incentives for recipients to open mail; verifiable date and time stamp of postal server processing; customized verification of decrypted content; creation of a holding of mail at said postal server; and payment and accounting for mail services; and combinations thereof (fig 3C; col. 17 lines 17 et seq).

As per claim 13, Powers teaches a communication system according to claim 12 where said prioritization is a differentiation between mail processed by said postal server and software and other electronic mail carried in the Internet fig 2, address book table).

As per claim 14, Powers teaches a communication system according to claim 12 wherein said prioritization comprises a differentiation among mail processed by said postal server and software (fig 2; col. 8 lines 3-14; col. 9 lines 53-63).

As per claim 15, Powers teaches a communications system according to claim 1 wherein said sender and recipient terminals and the Internet can have different combinations of operating systems and Internet software, and wherein the senders and recipients software are adapted to interface across said different combinations through the postal server (fig 2; col. 8 lines 3-14; col. 9 lines 53-63).

Claims 16-21 are a method of system claims 1-16. They are rejected under the same rationale.

### ***Response to Arguments***

Applicant's arguments filed 2/27/08 have been fully considered but they are not persuasive.

Applicant argued that Powers does not teach the present's invention postal server and postal server software that can be selected to modify and improve the delivery process.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Examiner believes that Powers' reference teaches all the invention as claimed (see col. 15 line 63 to col. 16 line 12). Accordingly, the rejection is maintained.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 571-272-3937. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/Frantz B. Jean/  
Primary Examiner, Art Unit 2154